

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

JESSE C. ANDERSON,	)	
	)	
Plaintiff,	)	Case No.
	)	
vs.	)	<b>COMPLAINT</b>
	)	<b>And</b>
	)	<b>JURY DEMAND</b>
CREDIT MANAGEMENT SERVICES,	)	
INC.,	)	
	)	
Defendant.	)	
	)	

COMES NOW, the Plaintiff, by and through his attorneys, with this Complaint against the Defendant. Plaintiff alleges and states that this is an action brought by an individual consumer pursuant to the federal Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. (Hereinafter the “FDCPA”), and the Nebraska Consumer Protection Act (Hereinafter the “NCPA”), Neb. Rev. Stat. § 59-1601 et seq. to redress the false and misleading representations made and the deceptive practices engaged in by the Defendant during the collection of an alleged debt from the Plaintiff, incurred for a personal, family or household purposes. The Plaintiff seeks an award of statutory damages, actual damages, injunctive and declaratory relief, reasonable attorneys’ fees and costs of this action, as the Defendant’s practices are unlawful under the FDCPA, and the NCPA. In support of these claims, the Plaintiff states and alleges as follows:

### **JURISDICTION AND PARTIES**

1. That the subject matter jurisdiction of this Court arises under 15 U.S.C. § 1692k, actionable through 28 U.S.C. § 1331 and other provisions of the law.

2. That venue is proper in this Court for the reason that the claims on which the transactions took place happened in the state of Nebraska in this judicial district.

3. That at all times relevant hereto, the Plaintiff is a resident of Dunbar, Otoe County, Nebraska.

4. That defendant Credit Management Services, Inc. (Hereinafter “CMS”) is a corporation organized and existing under the laws of the state of Nebraska and is doing business throughout the state of Nebraska.

### **FACTUAL BACKGROUND**

5. That on or about May 12, 2010, Defendant sent Plaintiff a collection letter, which sought principal of \$150.00 with interest of \$4.27. Plaintiff paid that principal plus additional interest on August 20, 2010, for a total of \$159.96.

6. That Defendant CMS filed a collection lawsuit against the Plaintiff in the county court of Otoe County Nebraska on June 21, 2010.

7. That in the County Court Complaint against Plaintiff, filed on June 21, 2010 CMS sued on an alleged debt of \$100.00, which was previously paid by Plaintiff in the amount of \$106.56 to CMS on June 16, 2010.

8. That Defendant CMS demanded and collected prejudgment interest from the Plaintiff without ever securing a judgment against the Plaintiff.

9. Defendant released personal and private information to a third party concerning

the debt alleged to be owed by the Plaintiff, in that CMS included Katherine Powell as a defendant in the county court action when she is not related to the party incurring the alleged debt, and had no involvement in the creation of the alleged underlying debt, and could not ever be responsible for payment of the alleged account.

**CAUSE OF ACTION NO. 1**  
**Violations of 15 U.S.C. § 1692 et seq.**  
**Fair Debt Collection Practices Act**

COMES NOW the Plaintiff for his First Cause of Action against the Defendant and states and alleges as follows:

10. The Plaintiff reasserts all of the allegations stated above as if fully stated here.

11. That Plaintiff is a natural person and a "consumer" within the meaning of the FDCPA, 15 U.S.C. § 1692a(3).

12. That Defendant is engaged in collecting debts and regularly attempts to collect debts alleged to be due another by use of the mail and telephone and as such is a debt collector within the meaning of 15 U.S.C. § 1692a(6).

13. That all times relevant hereto the alleged accounts at issue here are debts of the Plaintiff for personal, family, or household purposes alleged to be in default.

14. That Defendant violated the FDCPA in the following particulars:

a) By making a false representation of the services rendered or compensation which may be lawfully received by Defendant for the collection of debts owed another in violation of 15 U.S.C. § 1692e(2)(B).

b) By making false, deceptive misleading representations in connection with the collection of the debt in violation of 15 U.S.C. § 1692e;

c) By giving a false representation of the character, amount, or legal status of the debt in violation of 15 U.S.C. §1692e(2)(A);

d) By attempting to collect an amount, which is not legally owed, and to take any action that cannot be legally taken in violation of 15 U.S.C. § 1692e;

e) By the use of false representation or deceptive means to attempt to collect a debt in violation of 15 U.S.C. § 1692e(10); and

f) By communicating with a third party in connection with the collection of a debt in violation of 15 U.S.C. § 1692c(b).

WHEREFORE, Plaintiff requests that the court:

a. Enter declaratory judgment pursuant to 28 U.S.C. §§ 2201 and 2202 that the practices of the Defendant described above violate the FDCPA;

b. Award Statutory damages pursuant to 15 U.S.C. § 1692k;

c. Award actual damages;

d. Award costs and reasonable attorneys' fees pursuant to the FDCPA; and

e. Enter such additional relief as the Court may find to be just and proper.

**CAUSE OF ACTION NO. 2**  
**VIOLATIONS OF Neb. Rev. Stat. § 59-1601 et seq.**  
**Nebraska Consumer Protection Act**

15. The Plaintiff reasserts all of the allegations stated above as if fully stated here.

16. The Defendant is a "person" engaged in "Trade or Commerce" as those terms are contemplated in the NCPA, Neb. Rev. Stat. § 59-1601 et seq.

17. The Defendant's practices of collecting debts from unsophisticated consumers such as the Plaintiff as set forth above constitute unfair and deceptive practices in

violation of Neb. Rev. Stat. § 59-1602.

18. The Defendant's violations caused injury to the Plaintiff and bringing this claim is in the public interest.

WHEREFORE, Plaintiff requests that the court enter judgment:

- a. For actual damages, including disgorgement and refund of the amounts paid.
- b. Statutory attorneys' fees and costs of this action.
- c. Statutory damages.
- d. Injunctive and declaratory relief.
- e. Such other relief as the court shall allow, pursuant to Neb. Rev. Stat. § 59-1609.

WHEREFORE, Plaintiff prays for a judgment against the Defendant for actual damages, for ongoing damages, and for the costs of this action.

Dated this 8<sup>th</sup> day of October, 2010

Jesse Anderson, Plaintiff,

By: /s/ William L. Reinbrecht  
William L. Reinbrecht, #20138  
Pamela A. Car, #18770  
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Attorneys for the Plaintiff

**JURY DEMAND**

Plaintiff demands trial by jury as to all issues so triable.

By: /s/ William L. Reinbrecht

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